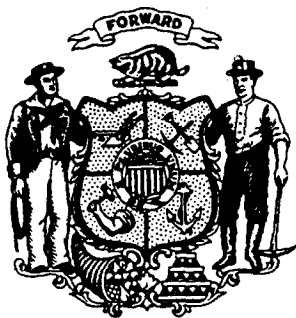


State of Wisconsin



1995 Assembly Bill 140

Date of enactment: June 6, 1996
Date of publication*: June 20, 1996

1995 WISCONSIN ACT 401

AN ACT *to amend* 343.10 (1) (a), 343.10 (5) (b) and 343.30 (5); and *to create* 767.303 of the statutes; relating to: suspension of motor vehicle operating privilege for nonpayment of child support.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 343.10 (1) (a) of the statutes is amended to read:

343.10 (1) (a) If a person's license or operating privilege is revoked or suspended under this chapter or s. 161.50 or 767.303 and if the person is engaged in an occupation, including homemaking or full-time or part-time study, or a trade making it essential that he or she operate a motor vehicle, the person, after payment of the fee provided in sub. (6), may file a petition setting forth in detail the need for operating a motor vehicle.

SECTION 2. 343.10 (5) (b) of the statutes is amended to read:

343.10 (5) (b) *Limitations.* Occupational licenses are subject to the limitations specified in ss. 161.50, 343.30 (1q) (b) and (h), 343.305 (8) (d) and (10) (b) and (em), 343.31 (3m) and, 343.32 (1m) and 767.303.

SECTION 3. 343.30 (5) of the statutes is amended to read:

343.30 (5) No court may suspend or revoke an operating privilege except as authorized by this chapter or ch. 48, 345 or 351 or s. 161.50 or 767.303. When a court revokes, suspends or restricts a child's operating privilege under ch. 48, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other

than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

SECTION 4. 767.303 of the statutes is created to read:

767.303 Enforcement of child support; suspension of operating privilege. (1) If a person fails to pay a payment ordered for support under s. 767.077, support under s. 767.08, child support or family support under s. 767.23, child support under s. 767.25, family support under s. 767.261, revised child or family support under s. 767.32, child support under s. 767.458 (3), child support under s. 767.51, child support under ch. 769 or child support under s. 948.22 (7), the payment is 90 or more days past due and the court finds that the person has the ability to pay the amount ordered, the court may suspend the person's operating privilege, as defined in s. 340.01 (40), until the person pays all arrearages in full or makes payment arrangements that are satisfactory to the court, except that the suspension period may not exceed 5 years. If otherwise eligible, the person is eligible for an occupational license under s. 343.10 at any time.

(2) Whenever the court orders suspension of a person's operating privilege under sub. (1), the court shall notify the department of transportation, in the form and

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

manner prescribed by the department. The notice to the department shall include the name and last-known address of the person against whom the support order was entered, certification by the court that the person has been notified of the entry of the support order and that there are arrearages in support payments that are 90 or more days past due, the place where the arrearages may be paid and that the person's operating privilege shall remain suspended until the person pays all arrearages in full or makes payment arrangements that are satisfactory to the court, except that the suspension period may not exceed 5 years.

(3) If the person subsequently pays the full amount of the arrearages or makes payment arrangements that are

1995 Assembly Bill 140

satisfactory to the court, the court shall immediately notify the department of transportation of the payment, in the form and manner prescribed by the department.

(4) This section applies to support arrearages existing on or after the effective date of this subsection [revisor inserts date], regardless of when the arrearages accrued or when the order or judgment requiring the payment of support was entered.

(5) The remedy permitted under this section is in addition to any other remedies authorized by law.

SECTION 5. Effective date; transportation.

(1) CHILD SUPPORT ARREARAGES AND MOTOR VEHICLE OPERATING PRIVILEGE. This act takes effect on the first day of the 4th month beginning after publication.

State of Wisconsin



1995 Assembly Bill 252

Date of enactment: June 7, 1996
Date of publication*: June 20, 1996

1995 WISCONSIN ACT 420

AN ACT *to amend* 343.32 (2) (bt); and *to create* 346.922 and 346.95 (7) of the statutes; **relating to:** transport of children riding within cargo areas of motor trucks and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 343.32 (2) (bt) of the statutes is amended to read:

343.32 (2) (bt) The scale adopted by the secretary may not assess any demerit points for a violation of s. 346.922 or 347.48 (2m) (b), (c) or (d) or (4) (a).

SECTION 2. 346.922 of the statutes is created to read:

346.922 Transporting children in cargo areas of motor trucks. (1) Notwithstanding s. 346.92, no person may operate upon a highway a motor truck having a gross weight of 10,000 pounds or less when any child under the age of 16 years is in an open cargo area of the motor truck.

(2) Subsection (1) does not apply to any of the following:

(a) A person operating a farm truck in conjunction with farm operations.

(b) A person operating a motor truck in a parade sanctioned by a local municipality.

(c) A person operating a motor truck for the purpose of transporting licensed deer hunters during the authorized deer hunting season with firearms.

SECTION 3. 346.95 (7) of the statutes is created to read:

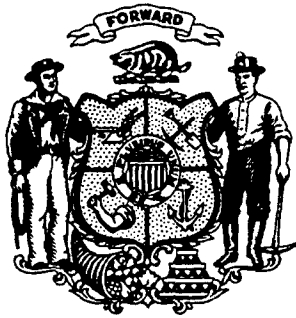
346.95 (7) Any person violating s. 346.922 may be required to forfeit not less than \$10 nor more than \$25 for the first offense and not less than \$25 nor more than \$200 for a 2nd or subsequent conviction within 3 years.

SECTION 4. Initial applicability.

(1) This act first applies to offenses committed on the effective date of this subsection.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

State of Wisconsin



1995 Senate Bill 117

Date of enactment: June 7, 1996
Date of publication*: June 20, 1996

1995 WISCONSIN ACT 425

AN ACT *to amend* 343.30 (1p), 343.30 (1q) (b) 2. to 4., 343.305 (10) (b) 2. to 4., 343.305 (10) (em), 343.31 (3) (bm) 2. to 4., 343.31 (3) (c), 343.31 (3) (e) and (f), 346.65 (2) (a) to (e), 346.65 (2e), 346.65 (2g) (a), 346.65 (2j) (a) to (c), 346.65 (2q), 346.65 (3) and 971.17 (1); and *to create* 343.30 (1q) (b) 4m., 343.305 (10) (b) 4m., 343.31 (3) (bm) 4m., 346.65 (2) (f), 346.65 (2g) (c), 346.65 (2j) (d), 346.65 (3m), 940.09 (1b) and 940.25 (1b) of the statutes; **relating to:** operating a motor vehicle while under the influence of an intoxicant when a minor is a passenger in the motor vehicle and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 343.30 (1p) of the statutes is amended to read:

343.30 (1p) Notwithstanding sub. (1), a court shall suspend the operating privilege of a person for 3 months upon the person's conviction by the court for violation of s. 346.63 (2m) or a local ordinance in conformity ~~there-~~ with s. 346.63 (2m). If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2m) or a local ordinance in conformity with s. 346.63 (2m), the court shall suspend the operating privilege of the person for 6 months.

SECTION 2. 343.30 (1q) (b) 2. to 4. of the statutes are amended to read:

343.30 (1q) (b) 2. Except as provided in subd. 3. ~~or~~ 4. or 4m., for the first conviction, ~~suspension or revoca-~~ tion, the court shall suspend the person's operating privilege for not less than 6 months nor more than 9 months. The person is eligible for an occupational license under s. 343.10 at any time.

3. ~~If Except as provided in subd. 4m., if~~ the number of convictions, suspensions and revocations within a 5-year period equals 2, the court shall revoke the person's operating privilege for not less than one year nor more than 18 months. After the first 60 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan ordered under par. (c).

4. ~~If Except as provided in subd. 4m., if~~ the number of convictions, suspensions and revocations within a 10-year period equals 3 or more, the court shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment ~~and~~ is complying with the driver safety plan ordered under par. (c).

SECTION 3. 343.30 (1q) (b) 4m. of the statutes is created to read:

343.30 (1q) (b) 4m. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

346.63 (1) or a local ordinance in conformity with s. 346.63 (1), the applicable minimum and maximum suspension or revocation periods under subd. 2., 3. or 4. for the conviction are doubled.

SECTION 4. 343.305 (10) (b) 2. to 4. of the statutes are amended to read:

343.305 (10) (b) 2. Except as provided in subd. 3. or 4. or 4m., for the first improper refusal, the court shall revoke the person's operating privilege for one year. After the first 30 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

3. If Except as provided in subd. 4m., if the number of convictions, suspensions and revocations in a 5-year period equals 2, the court shall revoke the person's operating privilege for 2 years. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan.

4. If Except as provided in subd. 4m., if the number of convictions, suspensions and revocations in a 10-year period equals 3 or more, the court shall revoke the person's operating privilege for 3 years. After the first 120 days of the revocation period, the person is eligible for an occupational license under s. 343.10 if he or she has completed the assessment and is complying with the driver safety plan.

SECTION 5. 343.305 (10) (b) 4m. of the statutes is created to read:

343.305 (10) (b) 4m. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the improper refusal, the applicable minimum and maximum revocation periods under subd. 2., 3. or 4. for the improper refusal are doubled.

SECTION 6. 343.305 (10) (em) of the statutes is amended to read:

343.305 (10) (em) One penalty for improperly refusing to submit to a test for intoxication regarding a person arrested for a violation of s. 346.63 (2m) or a local ordinance in conformity therewith is revocation of the person's operating privilege for 6 months. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the improper refusal, the revocation period is 12 months. After the first 15 days of the revocation period, the person is eligible for an occupational license under s. 343.10. Any such improper refusal or revocation for the refusal does not count as a prior refusal or a prior revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person shall not be required to submit to and comply with any assessment or driver safety plan under pars. (c) and (d).

SECTION 7. 343.31 (3) (bm) 2. to 4. of the statutes are amended to read:

343.31 (3) (bm) 2. Except as provided in subd. 3. or 4. or 4m., for the first such conviction, the department shall suspend the person's operating privilege for not less

than 6 months nor more than 9 months. If an Indian tribal court in this state suspends the person's privilege to operate a motor vehicle on tribal lands for not less than 6 months nor more than 9 months for the conviction specified in par. (bm) (intro.), the department shall impose the same period of suspension. The person is eligible for an occupational license under s. 343.10 at any time.

3. If Except as provided in subd. 4m., if the number of suspensions, revocations and convictions within a 5-year period equals 2, the department shall revoke the person's operating privilege for not less than one year nor more than 18 months. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than one year nor more than 18 months for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After the first 60 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

4. If Except as provided in subd. 4m., if the number of suspensions, revocations and convictions within a 10-year period equals 3 or more, the department shall revoke the person's operating privilege for not less than 2 years nor more than 3 years. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than 2 years nor more than 3 years for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After the first 90 days of the revocation period, the person is eligible for an occupational license under s. 343.10.

SECTION 8. 343.31 (3) (bm) 4m. of the statutes is created to read:

343.31 (3) (bm) 4m. If the Indian tribal court that convicted the person determined that there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the conviction, the applicable minimum and maximum suspension or revocation periods under subd. 2., 3. or 4. for the conviction are doubled.

SECTION 9. 343.31 (3) (c) of the statutes is amended to read:

343.31 (3) (c) Any person convicted under s. 940.09 of causing the death of another by the operation or handling of a motor vehicle shall have his or her operating privilege revoked for 5 years. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.09, the revocation period is 10 years.

SECTION 10. 343.31 (3) (e) and (f) of the statutes are amended to read:

343.31 (3) (e) Any person convicted under s. 346.63 (2) shall have his or her operating privilege revoked for not less than one year nor more than 2 years. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the con-

viction under s. 346.63 (2), the minimum and maximum revocation periods are doubled.

(f) Any person convicted under s. 940.25 shall have his or her operating privilege revoked for 2 years. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.25, the revocation period is 4 years.

SECTION 11. 346.65 (2) (a) to (e) of the statutes are amended to read:

346.65 (2) (a) Shall forfeit not less than \$150 nor more than \$300, except as provided in pars. (b) to ~~(e)~~ (f).

(b) ~~Shall Except as provided in par. (f), shall~~ be fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months if the total number of suspensions, revocations and convictions counted under s. 343.307 (1) equals 2 in a 5-year period; ~~except that suspensions.~~ Suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

(c) ~~Shall Except as provided in par. (f), shall~~ be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total number of suspensions, revocations and convictions counted under s. 343.307 (1) equals 3 in a 10-year period, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

(d) ~~Shall Except as provided in par. (f), shall~~ be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more than one year in the county jail if the total number of suspensions, revocations and convictions counted under s. 343.307 (1) equals 4 in a 10-year period, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

(e) ~~Shall Except as provided in par. (f), shall~~ be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 6 months nor more than one year in the county jail if the total number of suspensions, revocations and convictions counted under s. 343.307 (1) equals 5 or more in a 10-year period, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

SECTION 12. 346.65 (2) (f) of the statutes is created to read:

346.65 (2) (f) If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (1), the applicable minimum and maximum forfeitures, fines or imprisonment under par. (a), (b), (c), (d) or (e) for the conviction are doubled. An offense under s. 346.63 (1) that subjects a person to a penalty under par. (c), (d) or (e) when there is a minor passenger under 16 years of age in the motor vehicle is a felony and the place of imprisonment shall be determined under s. 973.02.

SECTION 13. 346.65 (2e) of the statutes is amended to read:

346.65 (2e) If the court determines that a person does not have the ability to pay the costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d) ~~or~~ (e) or (f), the court may reduce the costs, fine and forfeiture imposed and order the person to pay, toward the cost of the assessment and driver safety plan imposed under s. 343.30 (1q) (c), the difference between the amount of the reduced costs and fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2) (a), (b), (c), (d) ~~or~~ (e) or (f).

SECTION 14. 346.65 (2g) (a) of the statutes is amended to read:

346.65 (2g) (a) In addition to the authority of the court under s. 973.05 (3) (a) to provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a fine imposed under sub. (2) (b) to ~~(e)~~ (f), the court may provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2) (a) or may require a person who is subject to sub. (2) to perform community service work for a public agency or a nonprofit charitable organization in addition to the penalties specified under sub. (2). Notwithstanding s. 973.05 (3) (b), an order may only apply if agreed to by the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of a community service order under this subsection does not entitle an indigent defendant who is subject to sub. (2) (a) to representation by counsel under ch. 977.

SECTION 15. 346.65 (2g) (c) of the statutes is created to read:

346.65 (2g) (c) If there was a minor passenger under 16 years of age in the motor vehicle or commercial motor vehicle at the time of the violation that gave rise to the conviction, the court may require a person ordered to perform community service work under par. (a), or under s. 973.05 (3) (a) if that person's fine resulted from violating s. 346.63 (2), (5) (a) or (6) (a), 940.09 (1) or 940.25, to participate in community service work that benefits children or that demonstrates the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug. The court may order the person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph.

SECTION 16. 346.65 (2j) (a) to (c) of the statutes are amended to read:

346.65 (2j) (a) Shall forfeit not less than \$150 nor more than \$300 except as provided in par. (b) ~~or~~, (c) or (d).

(b) ~~Shall Except as provided in par. (d), shall~~ be fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months if the total of prior convictions, suspension and revocations counted under s. 343.307 (2) equals 2 in a 5-year period.

(c) ~~Shall Except as provided in par. (d), shall~~ be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor more than one year in the county jail if the total of prior convictions, suspensions and revocations counted under s. 343.307 (2) equals 3 or more in a 10-year period.

SECTION 17. 346.65 (2j) (d) of the statutes is created to read:

346.65 (2j) (d) If there was a minor passenger under 16 years of age in the commercial motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (5), the applicable minimum and maximum forfeitures, fines or imprisonment under par. (a), (b) or (c) for the conviction are doubled. An offense under s. 346.63 (5) that subjects a person to a penalty under par. (c) when there is a minor passenger under 16 years of age in the commercial motor vehicle is a felony and the place of imprisonment shall be determined under s. 973.02.

SECTION 18. 346.65 (2q) of the statutes is amended to read:

346.65 (2q) Any person violating s. 346.63 (2m) shall forfeit \$10. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under 346.63 (2m), the forfeiture is \$20.

SECTION 19. 346.65 (3) of the statutes is amended to read:

346.65 (3) Except as provided in sub. (5m), any person violating s. 346.62 (3) ~~or 346.63 (2) or (6)~~ shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned ~~for~~ not less than 30 days nor more than one year in the county jail.

SECTION 20. 346.65 (3m) of the statutes is created to read:

346.65 (3m) Any person violating s. 346.63 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and

may be imprisoned for not less than 30 days nor more than one year in the county jail. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum and maximum fines or periods of imprisonment for the conviction are doubled and the place of imprisonment shall be determined under s. 973.02.

SECTION 21. 940.09 (1b) of the statutes is created to read:

940.09 (1b) If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under sub. (1), any applicable maximum fine or imprisonment specified for the conviction is doubled.

SECTION 22. 940.25 (1b) of the statutes is created to read:

940.25 (1b) If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under sub. (1), any applicable maximum fine or imprisonment specified for the conviction is doubled.

SECTION 23. 971.17 (1) of the statutes is amended to read:

971.17 (1) COMMITMENT PERIOD. When a defendant is found not guilty by reason of mental disease or mental defect, the court shall commit the person to the department of health and social services for a specified period not exceeding two-thirds of the maximum term of imprisonment that could be imposed under s. 973.15 (2) (a) against an offender convicted of the same crime or crimes, including imprisonment authorized by ss. 161.48, 346.65 (2) (f), (2j) (d) or (3m), 939.62, 939.621, 939.63, 939.635, 939.64, 939.641 and, 939.645, 940.09 (1b) and 940.25 (1b) and other penalty enhancement statutes, as applicable, subject to the credit provisions of s. 973.155. If the maximum term of imprisonment is life, the commitment period specified by the court may be life, subject to termination under sub. (5).

SECTION 24. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other suspensions, revocations or convictions as prior suspensions, revocations or convictions for sentencing a person or for suspending or revoking a person's operating privilege.

State of Wisconsin



1995 Senate Bill 522

Date of enactment: **June 10, 1996**
Date of publication*: **June 24, 1996**

1995 WISCONSIN ACT 431

AN ACT to repeal 115.81 (7); and to amend 115.80 (5) (b) 3., 115.81 (1), 115.81 (3), 115.81 (4), 115.81 (4m), 115.81 (6), 115.81 (7m) and 115.81 (8) of the statutes; relating to: the method of resolving disputes concerning children with exceptional educational needs between school boards and the parents of those children.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.80 (5) (b) 3. of the statutes is amended to read:

115.80 (5) (b) 3. This paragraph does not impair a parent's right to appeal a hearing under s. 115.81 (1) (a).

SECTION 2. 115.81 (1) of the statutes is amended to read:

115.81 (1) (title) RIGHT TO ~~APPEAL~~ HEARING. (a) A parent may file a written request a school board with the department for a hearing whenever the school board proposes or refuses to initiate or change his or her child's multidisciplinary team evaluation, individualized education program, educational placement or the provision of an appropriate special education program.

(b) A school board may initiate file a written request with the department for a hearing to override a parent's refusal to grant consent or a parent's revocation of his or her consent for a multidisciplinary team evaluation or educational placement or to contest the payment of an independent evaluation.

SECTION 3. 115.81 (3) of the statutes is amended to read:

115.81 (3) (title) STATUS DURING ~~APPEAL~~ HEARING AND COURT PROCEEDING. The school board may not change the educational placement of a child with exceptional

educational needs who is the subject of a hearing, ~~appeal~~ or court proceeding conducted under this subchapter during the pendency of the hearing, ~~appeal~~ or court proceeding unless the change is made with the written consent of the child's parent. If the health or safety of the child or of other persons would be endangered by delaying the change in assignment, the change may be made earlier, upon order of the school board, but without prejudice to any rights that the child or parent may have.

SECTION 4. 115.81 (4) of the statutes is amended to read:

115.81 (4) RIGHTS AT HEARING. A parent shall have access to any reports, records, clinical evaluations or other materials upon which a decision relating to his or her child was wholly or partially based or which could reasonably have a bearing on the correctness of the decision. At any hearing held under this section, the parent may determine whether the hearing shall be public or private. The parties to a hearing may examine and cross-examine witnesses, introduce evidence, appear in person and be represented by an advocate. The school board hearing officer shall keep prepare a full record of the hearing, prepared by the hearing officer proceedings. A complete record of the proceedings shall be given to the parent, if requested. The hearing officer shall inform the parents of their right to a complete record of the proceedings.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

1995 Senate Bill 522

SECTION 5. 115.81 (4m) of the statutes is amended to read:

115.81 (4m) **HEARING OFFICERS.** The department shall maintain a listing of qualified hearing officers who are not otherwise employed by or under contract to with a school board to serve as hearing officers in hearings under this section.

SECTION 6. 115.81 (6) of the statutes is amended to read:

115.81 (6) **HEARING AND DECISION.** Upon receipt of a written request for a hearing under sub. (1) (a) or the initiation of a hearing under sub. (1) (b), a school board, the department shall appoint an impartial hearing officer who is not otherwise employed by the department from the list maintained under sub. (4m). The hearing officer shall conduct the hearing and shall issue a decision within 45 days of the receipt of the request for the hearing under sub. (1) (a) or the initiation of the hearing under sub. (1) (b). The hearing officer may issue subpoenas, order an independent evaluation at school board expense and grant specific extensions of time for cause at the request of either party. If the hearing officer grants an extension of time, he or she shall include that extension and the reason for the extension in the record of the proceedings. The school board shall pay the cost of the hearing officer. Sections 227.44 to 227.50 do not apply to hearings conducted under this ~~section~~ subsection.

SECTION 7. 115.81 (7) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed.

SECTION 8. 115.81 (7m) of the statutes is amended to read:

115.81 (7m) (title) ~~APPEAL TO GOVERNING BODY OF RESIDENTS OF STATE OR COUNTY FACILITY.~~ For a child who resides, and is receiving special education, only in a state or county residential facility, ~~the child's parent shall appeal to the governing body of the facility in accordance with subs. (1) to (6), so far as applicable. The parent may appeal the governing body's decision under sub. (6) to the state superintendent under sub. (7) shall be considered a school board for the purposes of this section.~~

SECTION 9. 115.81 (8) of the statutes, as affected by 1995 Wisconsin Act 27, is amended to read:

115.81 (8) **APPEAL TO COURT.** Within 45 days after the decision of the reviewing hearing officer appointed by the secretary department under sub. (7) (6), either party may appeal the decision to the circuit court for the county in which the child resides.

SECTION 10. Initial applicability.

(1) This act first applies to a request for a hearing filed with the department of education on the effective date of this subsection.

SECTION 11. Effective date.

(1) This act takes effect on January 1, 1996, or on the day after publication, whichever is later.